

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

MICHAEL EDWARD WYATT,)	Civil Case No. 7:13cv00577
Plaintiff,)	
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
U.S. MARSHAL JOHNNY OWENS)	By: Norman K. Moon
Defendant.)	United States District Judge

Michael Edward Wyatt, a Virginia inmate proceeding *pro se*, brings this action under 42 U.S.C. § 1983 against United States Marshal Johnny Owens alleging that excessive force was used during Wyatt's arrest. I find that Wyatt has failed to state a claim against Owens and, therefore, I will dismiss his complaint without prejudice pursuant to 28 U.S.C. § 1915A(b)(1).

To state a cause of action under § 1983, a plaintiff must allege facts indicating that he has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42 (1988). In this case, Wyatt alleges no facts against, or conduct committed by, Owens. Further, Wyatt fails to demonstrate that Owens, a United States Marshal, was acting under color of state law at the time of any constitutional violation. Accordingly, I find that Wyatt has failed to state a claim against Owens.

For these reasons, I will dismiss Wyatt's § 1983 action without prejudice pursuant to § 1915A(b)(1) for failing to state a claim upon which relief may be granted.

ENTER: This 31st day of December, 2013.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE